

must be completed and add a statement that the Government may extend the period for their performance as provided in the Changes clause of the contract.

(c) Block 7-Contract Amount. If the contract is for both design and supervision and inspection services, set out the amounts for each effort separately.

(ii) The services to be furnished by an architect-engineer should be carefully defined during negotiation of the contract and a statement of them inserted in the contract's specification/work statement. The statement should clearly and concisely set forth the nature and extent of the services and include any special services, such as the nature and extent of subsurface exploration prior to designing foundations. A similar statement of supervision and inspection services should be inserted in the specification/work statement if supervision and inspection services are to be acquired.

### Subpart 1836.70—Partnering

SOURCE: 63 FR 44170, Aug. 18, 1998, unless otherwise noted.

#### 1836.7001 Definition.

*Partnering* means a relationship of open communication and close cooperation that involves both Government and Contractor personnel working together for the purpose of establishing a mutually beneficial, proactive, cooperative environment within which to achieve contract objectives and resolve issues and implementing actions as required.

#### 1836.7002 General.

(a) The establishment of a partnering environment usually leads to higher quality products completed more quickly at lower overall costs and with fewer accidents and litigation.

(b) The use of partnering is encouraged as it has been shown to reduce the average contract cost and schedule growth and to reduce contract claims and litigation.

(c) Partnering is a voluntary contract relationship within the management process that is not to be used to unofficially alter terms of the contract.

#### 1836.7003 Policy.

(a) Partnering should be used on a contract when the contracting officer, in coordination with the project manager, determines that the benefits to be achieved from its use are expected to be greater than the costs.

(b) In determining whether the benefits of partnering are greater than the costs, the following factors should be considered:

- (1) The estimated dollar value of the contract;
- (2) The complexity of the work to be performed;
- (3) The contemplated length of the contract; and
- (4) The estimated costs to be incurred in conducting the partnership development and team building initial and follow-up workshops.

#### 1836.7004 NASA solicitation provision and contract clause.

The contracting officer may insert a clause substantially the same as stated at 1852.236-75, Partnering for Construction Contracts, in solicitations and contracts for construction, when it has been determined in accordance with 1836.7003 that the benefits to be derived from partnering exceed the costs.

## PART 1837—SERVICE CONTRACTING

### Subpart 1837.1—Service Contracts—General

Sec.

1837.101 Definitions.

1837.104 Personal services contracts.

1837.110 Solicitation provisions and contract clauses.

1837.110-70 NASA solicitation provision and contract clauses.

1837.170 Pension portability.

### Subpart 1837.2—Advisory and Assistance Services

1837.203 Policy.

1837.204 Guidelines for determining availability of personnel.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 4472, Jan. 30, 1997, unless otherwise noted.

### Subpart 1837.1—Service Contracts—General

#### 1837.101 Definitions.

*Pension portability* means the recognition and continuation in a successor service contract of the predecessor service contract employees' pension rights and benefits.

#### 1837.104 Personal services contracts. (NASA supplements paragraph (b))

(b) Section 203(c)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(9)) authorizes NASA "to obtain services as authorized by Section 3109 of Title 5, United States Code." It is NASA policy to obtain the personal services of experts and consultants by appointment rather than by contract. The policies, responsibilities, and procedures pertaining to the appointment of experts and consultants are in NPG 3300.1, Appointment of Personnel To/From NASA, Chapter 4, Employment of Experts and Consultants.

[62 FR 4472, Jan. 30, 1997, as amended at 64 FR 12485, Mar. 9, 2000; 66 FR 53548, Oct. 23, 2001]

#### 1837.110 Solicitation provisions and contract clauses.

#### 1837.110-70 NASA solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 1852.237-70, Emergency Evacuation Procedures, in solicitations and contracts for on-site support services where emergency evacuations of the NASA installation may occur, e.g., snow, hurricanes, tornadoes, earthquakes, or other emergencies.

(b) The contracting officer shall insert the clause at 1852.237-71, Pension Portability, in solicitations, contracts or negotiated contract modifications for additional work when the procurement officer makes the determination in 1837.170(a)(2).

[62 FR 4472, Jan. 30, 1997, as amended at 62 FR 36721, July 9, 1997; 62 FR 58688, Oct. 30, 1997]

#### 1837.170 Pension portability.

(a) It is NASA's policy not to require pension portability in service con-

tracts. However, pension portability requirements may be included in solicitations, contracts, or contract modifications for additional work under the following conditions:

(1)(i) There is a continuing need for the same or similar services for a minimum of five years (inclusive of options), and, if the contractor changes, a high percentage of the predecessor contractor's employees are expected to remain with the program; or

(ii) The employees under a predecessor contract were covered by a portable pension plan, a follow-on contract or a contract consolidating existing services is awarded, and the total contract period covered by the plan covers a minimum of five years (including both the predecessor and successor contracts); and

(2) The procurement officer determines in writing, with full supporting rationale, that such a requirement is in the Government's best interest. The procurement officer shall maintain a record of all such determinations.

(b) When pension portability is required, the plan shall comply with the requirements of the clause at 1852.237-71, Pension Portability, (see 1837.110-70(b)), and the contract shall also include a clear description of the plan, including service, pay, liabilities, vesting, termination, and benefits from prior contracts.

### Subpart 1837.2—Advisory and Assistance Services

#### 1837.203 Policy. (NASA supplements paragraph (c))

(c) Advisory and assistance services of individual experts and consultants shall normally be obtained by appointment rather than by contract (see NPG 3300.1, Appointment of Personnel To/From NASA, Chapter 4, Employment of Experts and Consultants).

[62 FR 4472, Jan. 30, 1997, as amended at 64 FR 51079, Sept. 21, 1999; 66 FR 53548, Oct. 23, 2001]

#### 1837.204 Guidelines for determining availability of personnel. (NASA supplements paragraphs (a), (b), (c), and (e))

(a)(i) Outside peer review evaluators may be used to evaluate SBIR, STTR,

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NRA, AO, and unsolicited proposals without making the determination of non-availability.

(ii) For all other actions, the NASA official one level above the NASA program official responsible for the evaluation shall make the determination, with the concurrence of the legal office. The contracting officer shall ensure that a copy of the determination is in the contract file prior to issuance of a solicitation.

(b) The official designated in paragraph (a)(ii) of this section is responsible for the actions required in FAR 37.204(b).

(c) The agreement shall be made by the program official responsible for the evaluation and the contracting officer.

(e) The Assistant Administrator for Procurement (Code HS) is the approval authority for class determinations. The class determination request shall include the assessment required by FAR 37.204(b).

### PART 1839—ACQUISITION OF INFORMATION TECHNOLOGY

#### Subpart 1829.1—General

Sec.

1839.105 Privacy.

1839.107 Contract clause.

1839.107-70 NASA contract clause.

AUTHORITY: 42 U.S.C. 2473(c)(1)

SOURCE: 62 FR 4473, Jan. 30, 1997, unless otherwise noted.

#### Subpart 1839.1—General

##### 1839.105 Privacy.

See 1804.470.

##### 1839.107 Contract clause.

[62 FR 4473, Jan. 30, 1997. Redesignated at 62 FR 36721, July 9, 1997]

##### 1839.107-70 NASA contract clause.

(a)(1) The contracting officer shall insert the clause substantially as stated at 1852.239-70, Alternate Delivery Points, in solicitations and contracts for information technology when:

(i) An indefinite delivery/indefinite quantity contract will be used or when the contract will include options for additional quantities; and

(ii) Delivery is F.O.B. destination to the contracting activity.

(2) When delivery is F.O.B. origin and Government bills of lading (GBL) are used, the contracting officer shall use the clause with its Alternate I.

[62 FR 4473, Jan. 30, 1997. Redesignated at 62 FR 36721, July 9, 1997]